

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING & REGULATION
BEFORE THE SOUTH CAROLINA REAL ESTATE COMMISSION**

IN THE MATTER OF:

Jeremy Evan Ware,

License Number REL. 58968 (Inactive),

Case # 2012-261

Respondent.

FINAL ORDER

This matter came before the South Carolina Real Estate Commission ("Commission") on November 12, 2014, for a hearing to consider the Memorandum of Agreement and Stipulations dated November 10, 2014. A quorum of Commission members was present. The hearing was held pursuant to S.C. Code Ann. §§ 40-1-70(6) and 40-57-60(2) (1976, as amended), and the provisions of the Administrative Procedures Act, S.C. Code Ann. § 1-23-10, *et seq.* (1976, as amended). Lauren N. Kearney, Assistant Disciplinary Counsel, represented the State. The Respondent was present and was represented by Michael Jeffcoat, Esq. After consideration, the Commission voted to accept the Memorandum of Agreement and Stipulations, with the sanctions specified in this Order.

In the Memorandum of Agreement and Stipulations, the Respondent admitted to violations of S.C. Code Ann. § 40-1-110(1) (f) (1976, as amended).

EXHIBITS

Joint Exhibit 1- Memorandum of Agreement and Stipulations with attached exhibit.

Respondent's Exhibit 1-Draft document not completed for client/developer to review.

Respondent's Exhibit 2-Draft of document without letterhead.

Respondent's Exhibit 3-Email dated March 14, 2012.

Respondent's Exhibit 4-Draft letter for water and sewer for negotiating purposes.

FINDINGS OF FACT

Based upon the preponderance of the evidence in the record before the Commission, including Respondent's admissions in the Memorandum of Agreement and Stipulations and exhibits attached thereto, and testimony presented by the Respondent at the hearing, the Commission makes the following findings of fact:

1. At all times relevant to this matter, Respondent was duly licensed by the South Carolina Real Estate Commission and is subject to the jurisdiction of the Commission.

2. The South Carolina State Housing Authority (the "SCSHA") administers the Low-Income Housing Tax Credit Program (the "Program") for the State of South Carolina. In administering the Program, the Internal Revenue Service requires that the SCSHA establish a Qualified Allocation Plan.

3. On an annual basis, the SCSHA establishes a Qualified Allocation Plan and Low-Income Housing Tax Credit Manual (collectively "QAP"). Developers nationwide apply for tax credits from the SCSHA in accordance with QAP's requirements. One of QAP's requirements is that developers submit proof of zoning with their application. The relevant provision reads: "For new construction, evidence that the land use requirements for each site on which the development will be located is currently zoned for multifamily residential. Evidence should verify that the proposed development site currently meets the local zoning or land use restrictions."

4. On or about March 14, 2012, Respondent drafted a "Zoning Verification" letter for his client, an Atlanta, Georgia, developer. Per his client's instructions, Respondent drafted the letter on the City of Walterboro's letterhead. Moreover, Respondent stated that the land on which the proposed development was to be built was "zoned for multifamily residential." Respondent went on to write that "[t]he proposed development of apartments for older people (age 55 and older) is an allowable use."

5. Respondent testified that the letter he drafted on March 14, 2012, was a draft letter and he did not realize that his client/ developer would submit it to the Housing Authority to be considered for tax credits. He testified that there was no intent to defraud and that his client knew he was a real estate salesman and not an employee with the City of Walterboro. He testified he was given the letterhead so he could draft the letter for the city to sign.

6. The SCSHA received an application from Respondent's client/developer seeking tax credits. Respondent's letter of March 14, 2012, was submitted along with the application.

7. Subsequently, the SCSHA received a request from the City of Walterboro to receive copies of any zoning letters submitted for proposed developments within the City of Walterboro's jurisdiction. The SCSHA provided copies of the letters, including the one submitted by Respondent's client/developer.

8. The City Manager for the City of Walterboro notified the SCSHA that the letter signed by Respondent was incorrect, because the parcel of land referenced in his letter was not, in fact, zoned for multifamily residential use. Still more, the City Manager stated that Respondent neither worked for the City nor had authorization to use their letterhead.

9. The SCSHA soon discovered that Respondent was a licensed real estate salesman representing the owner of the proposed development trying to receive the federal tax credits.

10. In a letter submitted by the SCSHA to the South Carolina Department of Labor, Licensing, and Regulation, the SCSHA stated that the proposed development could have been awarded an allocation of tax credits had it not learned of Respondent's fabricated letter. Moreover, if the zoning issue had not been cleared up in a timely manner, Respondent's composing of a draft letter on City of Walterboro letterhead and the developer's subsequent sending of the draft to the SCSHA could have ultimately resulted in a loss of tax credits for the State of South Carolina.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this case, the Commission finds and concludes as a matter of law that:

1. The Commission has jurisdiction in this matter under S.C. Code § 40-57-60 (2), and, upon finding that a Respondent has violated the statutes or regulations of the Commission, the Commission has the authority to order the revocation, suspension, or probation of a license to practice and prescribe conditions to be met during probation, restriction or suspension, including but not limited to the satisfactory completion of additional education, continuing education programs or a supervisory period.. Additionally, the Commission may assess a fine and impose a public reprimand. Upon a determination by the Commission that discipline is not appropriate, the Commission may issue a non-disciplinary letter of caution. S.C. Code Ann. §§ 40-57-150 and 40-1-120.


2. Respondent is in violation of S.C. Code Ann. § 40-1-110(1) (f) (1976, as amended), in that Respondent committed an unprofessional act that was likely to deceive, defraud, or harm the public.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

1. Respondent shall be issued a public reprimand.
2. Respondent shall pay a penalty of Five hundred dollars (\$500.00) within forty-five (45) days of the date of this Final Order.
3. Respondent's license shall be placed on one (1) year probation from the date his license is reactivated.
4. Should the Respondent fail to comply with the terms and conditions of this Order, the Respondent's license shall be administratively suspended until compliance with this Order or an appearance before the Commission.
5. This Final Order shall take effect upon service of this Order on the Respondent.

AND IT IS SO ORDERED.

SOUTH CAROLINA REAL ESTATE COMMISSION



Tony K. Cox
Chairman

December 11, 2014.